



OFFICE OF CIVIL RIGHTS

# U.S ENVIRONMENTAL PROTECTION AGENCY

Fiscal Year 2006

Annual Report to Congress  
on the  
Notification and Federal Employee  
Antidiscrimination and Retaliation  
Act of 2002

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## **I. EXECUTIVE SUMMARY**

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Public Law 107-174. This report includes the number of cases in Federal court pending or resolved in fiscal year (FY) 2006 and, in connection with those cases, their disposition; money required to be reimbursed to the judgment fund; and the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2006, there were a total of 21 cases pending before Federal courts. Among these cases, there were 18 claims of violation of Title VII; 9 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act. Of the 21 cases reported for FY 2006, none were settled during the reporting period; 2 of the cases were dismissed by the courts; 2 were under appeal; and the remainder were proceeding at different stages of the pretrial process. There were no payments to the Judgment Fund resulting from any of the reported cases.

The EPA reports that there were no disciplinary actions taken in connection with any Federal case pending or resolved in FY 2006 under applicable provisions of the Federal Anti-discrimination Laws and Whistleblower Protection Laws or for any conduct that is inconsistent with the Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice.

The EPA continues to stress training as a mechanism for reducing the number of Federal court judgments, awards, and reducing the number of discrimination complaints.

## **II. BACKGROUND**

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal

year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report the status or disposition of the cases; the amount of money required to be reimbursed to the judgment fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws, and an analysis of the data collected with respect to trends, causal analysis, in addition to other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into five categories.

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.
- An agency must post quarterly on its public Web site summary statistical data pertaining to EEO complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006; final regulations to carry-out the notification and training requirements of the Act were published on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The EEOC published its final regulations to

Implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared this report based on the provisions of the No FEAR Act, OPM and EEOC's final regulations.

### **III. DATA**

#### **a. Civil Cases**

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved." The data presented below is the best available as of this reporting period. It includes all responsive data that the Agency has been able to identify to date. The Office of Civil Rights (OCR) will continue its' best efforts to identify and post all responsive data in the future.

During FY 2006, there were a total of 21 cases pending before Federal courts. Among these cases, there were 18 claims of violation of Title VII; 9 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act. Of the 21 cases reported for FY 2006, none were settled during the reporting period; 2 of the cases were dismissed by the courts; 2 were under appeal; and the remaining 17 cases were proceeding at different stages of the pre-trial process. There were no payments to the Judgment Fund resulting from any of the reported cases.

#### **b. Reimbursement to the Judgment Fund**

The OPM published final regulations to clarify the agency reimbursement provisions of Title II of the No FEAR Act. These regulations state that the U.S. Department of the Treasury's Financial Management Service (FMS) will provide notice to a Federal agency's Chief Financial Officer within 15 business days after payment from the Judgment Fund. The agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or contact them to make arrangements in writing for reimbursement.

The Agency made no reimbursements to the Treasury Judgment Fund for payments made on behalf of EPA for alleged discriminatory or retaliatory conduct, as described.

**c. Disciplinary Actions (5 C.F.R. § 724.302 (a)(3) & (5))**

The Agency reports that there were no employees disciplined in FY 2006 in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes another prohibited personnel practice.

**d. Final Year-End Data Posted Under Section 301(c)(1)(B)**

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act is included in Appendix 2. The final year-end data indicate that during FY 2006, there were 76 administrative complaints of discrimination filed. Among the 76 complaints filed, 21 complaints were dismissed. Among the remaining complaints, there were no findings of discrimination. The FY 2006 complaint totals can be found in its entirety at Appendix 2 of this report.

**e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))**

Section 203(a)(6) of the No FEAR Act requires that agencies include in their Annual Report to Congress a detailed description of the policy implemented by the agency relating to disciplinary actions imposed against a Federal employee who discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2), or committed a prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2). Further, the Act requires that, with respect to each such law, the Federal agency report on the number of employees who were disciplined in accordance with such policy and the specific nature of the disciplinary action taken. OPM's final regulations on Reporting and Best Practices published on December 28, 2006, define discipline as "any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay or removal." OPM expects Federal agencies to report disciplinary action taken whether or not there is a formal finding of discrimination.

EPA's EEO policy continues to demonstrate the Agency's commitment to providing employees with a discrimination free workplace. Further, the Office of Civil Rights' standard operating plan (for the re-dress of allegations of discrimination) provides for a prompt, fair and impartial review, and adjudication of any allegation of discrimination; further demonstrating the Agency's

commitment to equal employment opportunity principles and practices in all of our management decisions and personnel practices.

**f. No FEAR Act Training Plan (5 C.F.R. § 724.302 (a)(9))**

Section 202(c) of the No FEAR Act requires agencies to provide training to their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. Under 5 C.F.R. § 724.203, agencies are required to develop a written plan for training employees on the No FEAR Act.

During FY 2006, the Agency's Office of Civil Rights developed and implemented web based training for all Agency employees concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws. The Office of Civil Rights has developed and scheduled multiple EEO trainings for Managers and Supervisors for FY 2007-2008. The Agency plans to offer the same type of course to all Agency employees in FY 2008-2009. Classroom training will be reinforced by continued, annual web based training required for each employee

**IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))**

Section 203(a)(7) of the No FEAR Act requires that agencies undertake "an examination of trends, causal analysis, practical knowledge gained through experience, and any actions planned or taken to improve complaint or civil rights programs of the agency."

The Agency has seen a 27% decrease in the number of administrative complaints filed and a 33% decrease in the number of complainants since the implementation of the NoFEAR act in 2002. The bases of alleged discrimination most often raised were: (1) Reprisal; (2) Age; and (3) Sex (Female). The 76 administrative complaints filed at EPA contained 21 allegations of race (Black) discrimination, 11 allegations of race (White) discrimination, 4 allegations of race (Asian) discrimination, 1 allegation of race (American Indian/Alaska Native) discrimination, 6 allegations of color discrimination and 33 allegations of disability discrimination. Of the 53 completed investigations, 54.7% were timely. EPA's average time for completing an investigation was 206 days. EPA's average processing time for all complaint closures decreased from 676 days in FY 2005 to 505 days in FY 2006. There was no discernable pattern of allegations sufficient to show a pattern of behavior in any particular region, office or chain of management.

Several of our performance measures demonstrate the Agency's efforts to be a

model for other agencies in resolving internal complaints and other disputes quickly and successfully. One example is the agency's Workforce Solutions program, a one-stop, informal program for settling all types of workplace disputes within the EPA. It is an Alternative Dispute Resolution process available for equal employment opportunity complaints, as well as grievances and unfair labor practice claims. The program uses mediation or facilitation to resolve disputes brought forward by our employees.

The EPA has gained practical knowledge and experience since the first year of implementing the No FEAR Act, and continues to recognize the importance of a centralized database of information relevant to the reporting requirements of the NoFEAR Act. It is important that there be an electronic interface between the Office of Civil Rights; Office of Human Resources; Offices of the General Counsel and Chief Financial Officer. Because these organizations play a vital role in meeting the reporting requirements of the No Fear Act, OCR will work to develop an information system to facilitate the process of gathering information and data from these important departments in its headquarters and regional offices.

The EPA continues to emphasize education and awareness as effective tools in understanding the complaint process and as a mechanism for reducing the number of administrative and judicial complaints of discrimination. In addition, the requirement for Federal agencies to reimburse the Judgment Fund for judgments, awards, and compromise settlements resulting from Federal court cases serves as an incentive to agencies to avoid the potential for adverse judgments.

## **V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(8))**

Section 203(a)(8) of the No FEAR Act requires that agencies include in their Annual Report "any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201." At the time of this report, the Office of Civil Rights was diligently coordinating with the Office of the Chief Financial Officer to ensure that the Agencies budget was accurately adjusted to reflect reimbursements made to the Judgment Fund and also creating specific EEO billing codes to streamline future transactions and improve our current data tracking methodologies.

## **VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))**

We continually strive to attain a model EEO program that will provide the infrastructure necessary for the Agency to achieve the ultimate goal of a



discrimination-free work environment, characterized by an atmosphere of inclusion and free and open competition for employment opportunities.

The six elements identified as necessary for a model EEO program are:

- Demonstrated commitment from agency leadership;
- Integration of EEO into the agency's strategic mission;
- Management and program accountability;
- Proactive prevention of unlawful discrimination;
- Efficiency; and
- Responsiveness and legal compliance.

As a model EEO program we will hold managers, supervisors, EEO officials, and personnel officers accountable for the effective implementation and management of the Agency's EEO program.

Regular analysis of our Agency workforce statistics will serve to reveal symptoms of barriers to equal opportunity. Therefore, when there is an indication, through statistical analyses or other means, that potential barriers may exist in the workplace, the Agency will take responsibility for proactively undertaking a thorough examination of all related policies, procedures and practices to uncover whether an actual barrier to equal employment opportunity exists and ensure appropriate objectives are implemented to eliminate it.

Our goal is to ensure that the principles and standards we promote in the workplace are readily apparent in our operations. We strive to be an organization that sets and implements the highest quality standards for EEO, customer service, internal efficiencies, and fiscal responsibility. Improving our organizational capacity and infrastructure will help us carry out our mission more effectively and efficiently. Sound management of our resources-human, financial, and technological-are key to this effort. Identified means and strategies foster workplace policies and practices that make the most effective and efficient use of human capital through open and free workplace competition. While these proactive approaches fall within our statutory charge and mission, increased emphasis on them will present new management challenges for the Agency.

Historically, the EPA's resources primarily have been devoted to reactive, charge-driven approaches to combating discrimination. Because many of our current strategies to support the objective of a proactive, education-based deterrent of discrimination differ significantly from earlier iterations of agency goals and objectives, aligning our human capital and other agency resources to

support this strategic objective will be critical to its achievement and will present challenges to the various adjustments needed in the Agency's workforce.

## **ACCOMPLISHMENTS UPDATE**

The EPA has pursued the requirements of this important legislation as indicated in the actions highlighted below.

### **Policy Development**

- (1) **Employee Disciplinary Actions for EEO and No FEAR Act Violations.** The Office of Human Resources in coordination with the Office of General Counsel and in consultation with the Office Civil Rights has developed draft disciplinary policy, including a table of penalties for disciplinary actions covering EEO violations. It is currently under Agency review.
- (2) **Evaluating Supervisory Performance.** All members of the Senior Executive Service (SES) have a performance appraisal element for equal employment opportunity, affirmative employment, and diversity. This standard serves to evaluate that person has personally accomplished to facilitate, empower or direct efforts in the implementation of the Agency's EEO/affirmative employment and diversity programs. Elements of this performance standard 'flow down ' to subordinate managers and supervisors. This standard contemplates that each manager monitor the work environment to prevent instances of discrimination, disrespect, or harassment, and will take timely action if sexual harassment or other discriminatory treatment is observed, reported, or suspected.
- (3) **Evaluating Executive Performance.** EPA has made supporting EEO and diversity efforts a leadership measure in the performance plans of its Senior Executive Service employees.

### **Employee Awareness and Training**

During FY 2006, EPA briefed and provided training to its senior staff, managers, supervisors, and employees on a variety of topics which included the following:

- The No FEAR Act;
- EEO Law;
- EEO complaint process;
- Conflict resolution communication skills;

- Alternative Dispute Resolution (ADR) and effective mediation tools to address fairly and objectively issues and concerns arising in the workplace;
- Reasonable Accommodation for Employees with Disabilities.
- Provided “neutral” training to the EEO intake staff/counselors and officers so that they have additional tools to quickly resolve EEO complaints.

### **Systems and Process Improvements**

EPA implemented several initiatives aimed at improving data systems and processes:

- (1) The EPA Office of Civil Rights enhanced its automated EEO complaint tracking system (EEONet) to allow staff to access certain real-time EEO complaint status information from the pre-complaint through the formal complaint stages. This information facilitates intervention by various civil rights staffs with managers/supervisors to resolve issues at the lowest possible organizational level. It also aids managers in developing and analyzing trends and identifying areas requiring immediate attention.
- (2) The Office of Civil Rights and the Office of General Counsel continue to hold monthly status meetings. Their respective staff have initiated quarterly meetings to discuss ways to improve processing Agency complaints, to review relevant case law and updates in the legal community as well as to brainstorm on all areas of improving the Agency EEO program.



## APPENDIX 1

### Equal Employment Opportunity Data Posted Pursuant to the No Fear Act

Equal Employment Opportunity Data Posted Pursuant to Title III of the  
Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002  
(No FEAR Act), Public Law 107-174

Data as of September 31 - End of Fiscal Year 2006					
Complaint Activity	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
Number of Complaints Filed in Fiscal Year	104	74	71	69	76
Number of Complainants	91	66	69	65	60
Repeat Filers	6	4	2	8	11

Complaints by Basis	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
Race	70	49	64	34	37
Color	16	16	21	12	6
Religion	1	2	0	2	0
Retaliation	81	61	72	59	57
Sex	63	46	49	39	30
National Origin	6	14	14	18	13
Equal Pay Act	0	0	0	2	0
Age	62	51	41	21	29
Disability	44	39	46	25	33
Non EEO Bases	0	1	0	0	0

Data as of September 31 - End of Fiscal Year 2006	
Complaints by Issue	Comparative Data Previous Fiscal Year Data

	2002	2003	2004	2005	2006
Appointment/Hire	0	0	0	0	2
Assignment of Duties	56	17	20	8	4
Awards	17	3	1	6	6
Conversion to Full-Time	0	0	1	1	0
<b>Disciplinary Action</b>					
Demotion	0	0	1	2	1
Reprimand	17	7	11	5	3
Suspension	13	5	4	0	3
Removal	2	0	4	0	2
Other	10	0	0	0	0
Duty Hours	0	0	1	0	0
Evaluation Appraisal	21	0	9	8	16
Examination/Test	1	0	0	1	0
<b>Harassment</b>					
Non-Sexual	31	79	88	32	41
Sexual	2	0	3	1	1
Medical Examination	0	0	0	0	1
Pay (Including Overtime)	0	0	4	5	4
Promotion/Non-Selection	97	92	91	22	27
<b>Reassignment</b>					
Denied	3	0	0	4	0
Directed	7	6	0	2	2
Reasonable Accommodation	8	6	14	7	11
Reinstatement	0	0	0	0	0
Retirement	1	0	0	1	2
Termination	20	11	11	6	1
Terms/Conditions of Employment	18	1	43	15	18
Time and Attendance	14	18	6	8	11
Training	3	5	9	5	6
Other	0	0	0	0	0

Data as of September 31 - End of Fiscal Year 2006					
Processing Time	Comparative Data				
	Previous Fiscal Year				
	2002	2003	2004	2005	2006
Complaints Pending During Fiscal Year					

Average Number of Days in Investigative Stage	310	254	163	143	120
Average Number of Days in Final Action Stage	587	594	569	458	388
Complaints Pending during Fiscal Year Where Hearing was Requested					
Average Number of Days in Investigation Stage	328	283	224	250	185
Average Number of Days in Final Action Stage	0	0	0	0	0
Complaints Pending during Fiscal Year Where Hearing was not Requested					
Average Number of Days in Investigation Stage	310	284	163	143	120
Average Number of Days in Final Action Stage	587	594	569	458	388

Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
Total Complaints Dismissed by Agency	19	16	23	33	21
Average Days Pending Prior to Dismissal	216	76	300	143	149
Complaints Withdrawn by Complainants					
Total Complaints Withdrawn by Complainants	6	15	12	5	4

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
Total Number Findings	0	3	0	0	0
Without Hearing	0	0	0	0	0
With Hearing	0	3 100%	0	0	0

Data as of September 31 - End of Fiscal Year 2006					
Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data				
	2002	2003	2004	2005	2006
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings					

	#	%	#	%	#	%	#	%	#	%
<b>Total Number of Findings</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Race	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Disability	0	0.00	1	0.14	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00

<b>Data as of September 31 - End of Fiscal Year 2006</b>										
<b>Findings of Discrimination Rendered by Basis</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
<b>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings</b>										
	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>					
	#	%	#	%	#	%	#	%	#	%
<b>Findings After Hearing</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Race	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Sex (Includes Equal Pay Act)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	2	0.29	0	0.00	0	0.00	0	0.00
Disability	0	0.00	1	0.14	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

<b>Data as of September 31 - End of Fiscal Year 2007</b>										
<b>Findings of Discrimination Rendered by Basis</b>	<b>Comparative Data Previous Fiscal Year Data</b>									
<b>Note: Complaints can be filed alleging multiple bases. The sum of</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>					



the bases may not equal total complaints and findings										
	#	%	#	%	#	%	#	%	#	%
<b>Findings Without Hearing</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Race	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Data as of September 31 - End of Fiscal Year 2007										
Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data									
	2002	2003	2004	2005	2006					
	#	%	#	%	#	%	#	%	#	%
<b>Total Number of Findings</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>										
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	2	0.50	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Data as of September 31 - End of Fiscal Year 2006										
Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data									
	2002		2003		2004		2005		2006	
	#	%	#	%	#	%	#	%	#	%
<b>Findings After Hearing</b>	0	0.00	3	100	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>										
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	2	0.50	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	1	0.25	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Data as of September 31 - End of Fiscal Year 2006										
Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data									
	2002		2003		2004		2005		2006	
	#	%	#	%	#	%	#	%	#	%
<b>Findings Without Hearing</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Disciplinary Action</b>										
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Harassment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
<b>Reassignment</b>	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Data as of September 31 - End of Fiscal Year 2006					
Pending Complaints Filed in Previous Years by Status	Comparative Data Previous Fiscal Year Data				
Complaint Activity	2002	2003	2004	2005	2006
Total Complaints from previous Fiscal Years	149	175	167	129	91
Total Complainants	142	166	165	111	75
<b>Number of Complaints Pending</b>					
In Investigation	33	9	3	0	0
In Hearing	69	76	95	32	25
Final Action	0	37	4	15	9
Appeal with EEOC Office of Federal Operations	43	61	52	30	22

	Comparative Data Previous Fiscal Year Data				
Complaint Investigations	2002	2003	2004	2005	2006
Pending Complaints Where Investigation Exceeds Required Time Frames	21	21	7	6	4

## **APPENDIX 2**

# **MEMORANDUM- Policy Statement on Prohibition of Sexual Harassment**

**SUBJECT: Policy Statement on Prohibition of Sexual Harassment**

**TO: All Employees**

Our Agency is committed to maintaining a work environment governed by responsible, efficient, and ethical management. To ensure such a commitment, we all need to know the policies and guidelines prohibiting sexual harassment. Any behaviors which weaken our ability to lead and manage our people and programs are unacceptable in our work place.

Sexual harassment is a prohibited personnel practice contrary to merit system principles outlined in the Civil Service Reform Act of 1978 and contrary to law outlined in Title VII of the Civil Rights Act of 1964. Specifically, sexual harassment is deliberate, or repeated, unsolicited verbal comments, gestures, or physical contacts of a sexual nature which are unwelcome. Such sexual advances, requests for sexual favors, and other harassment when: (1) they are made explicitly or implicitly a condition of an individual's employment; (2) submission to, or rejection of them, affects employment decisions impacting an individual, such as promotion or work assignments; or (3) they unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

Any behavior which undermines the integrity of the employment relationship, impairs morale or interferes with employee productivity is a violation of ethical conduct in our Agency.

This memorandum constitutes the official policy regarding sexual harassment at the Environmental Protection Agency. We all share in the responsibility to promote a climate free from sexual harassment.

/s/ Carol M. Browner

**Issued:** June 1, 1993

## **APPENDIX 3**

# **Memorandum- Equal Employment Opportunity Policy Statement**

**SUBJECT: Equal Employment Opportunity Policy Statement**

**TO: All Employees**

From time to time, it is important that we renew and restate our commitment to providing equal employment opportunity for all persons. Today, the Environmental Protection Agency (EPA) joins the growing list of public and private sector employers which have added "sexual orientation" to our Equal Employment Opportunity Policy. Equal employment opportunity will be provided to all individuals regardless of race, color, national origin, religion, gender, age, disability, or sexual orientation. Discrimination or harassment based on these factors is unacceptable and will not be tolerated at EPA.

Civil rights cannot be protected or equal employment opportunity achieved without the deliberate support of each of us. It is an integral part of the responsibilities of each EPA manager and supervisor. The degree of effort expended to further the goals of the civil rights program and the results attained will be factors in evaluations and performance ratings.

Complaints of discrimination will be resolved fairly, expeditiously, and dispassionately at the lowest level whenever possible. Complainants, representatives and witnesses involved will be unimpeded and free from restraint, coercion, or reprisal.

The Director of the Office of Civil Rights will continue to direct the overall practices and programs of the Agency which contribute to the protection of civil rights and the promotion of our equal employment opportunity policy. I hold managers and supervisors at all levels responsible for promoting and supporting this policy.

Thank you for joining me in renewing our commitment to equal opportunity at the EPA.

/s/ Carol M. Browner

Issued: October 14, 1994

## **APPENDIX 4**

### **2007 Equal Employment Opportunity Policy**

Under the Civil Rights Act of 1964, as amended, other civil rights legislation, and Executive Orders, it is the policy of the Government of the United States to provide equal opportunity in Federal employment for all persons. As a federal agency, it is the policy of the EPA to prohibit discrimination in employment based on race, color, national origin, sex, age, disability, sexual orientation, marital status, status as a parent, retaliation or protected genetic information. Further, it is the policy of this Agency to provide equal employment opportunity to all persons; and to promote the full realization of equal employment opportunity through a continuing affirmative employment program.

To assist in translating this commitment into meaningful action, each Assistant/Associate Administrator and Regional Administrator will hold managers, supervisors, and other employees within their management purview, accountable in ensuring that EPA customers and employees are treated fairly and equitably. Further, I expect every EPA employee to comport his/herself in a manner that clearly demonstrates their understanding of these principles and in compliance with all policies that prohibit all forms of discrimination in the workplace.

Accountability shall be evidenced by:

- a general requirement for senior managers to establish sound management and personnel practices.
- a requirement to, as appropriate, engage in alternative dispute resolution (ADR) to resolve issues quickly; and
- an EEO, fairness, and diversity performance standard in effect for all managers at the SES level with an annual review of performance in this area, by appropriate reviewing Board(s).

Discrimination and harassment undermine the integrity of the employment relationship, compromise equal employment opportunity, and significantly interfere with the effective accomplishment of the mission of the Agency. EPA's policy against discrimination and harassment is applicable to all employment practices, including recruitment, selection, hiring, promotions, detail assignments, transfers, terminations, career development and training, performance evaluations, awards, and working conditions. With your continued support and commitment to equal employment opportunity, we will continue our work towards a discrimination and harassment free work environment.

Issued: June 14, 2007